

**ASSEMBLY BILL**

**No. 2583**

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**Introduced by Assembly Member Nation**

February 24, 2006

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An act to amend Section 733 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2583, as introduced, Nation. Dispensing prescription drugs and devices: refusal to dispense.

Existing law prohibits a health care licentiate from obstructing a patient in obtaining a prescription drug or device, and requires the licentiate to dispense drugs and devices pursuant to a lawful prescription or order, except in specified circumstances, including on ethical, moral, or religious grounds asserted by the licentiate if certain requirements are met. Existing law authorizes the California State Board of Pharmacy to issue a citation for a violation of these provisions and authorizes its executive officer to issue a letter of admonishment for their violation.

This bill would require the board to create and provide a sign informing a patient of his or her right to timely access to a prescribed drug or device that a licentiate has refused to dispense based on ethical, moral, or religious grounds. The bill would require licentiates authorized to make such a refusal, or their employers, to visibly place the sign at or near the entrance of the business.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 733 of the Business and Professions Code is amended to read:

733. (a) No licentiate shall obstruct a patient in obtaining a prescription drug or device that has been legally prescribed or ordered for that patient. A violation of this section constitutes unprofessional conduct by the licentiate and shall subject the licentiate to disciplinary or administrative action by his or her licensing agency.

(b) Notwithstanding any other provision of law, a licentiate shall dispense drugs and devices, as described in subdivision (a) of Section 4024, pursuant to a lawful order or prescription unless one of the following circumstances exists:

(1) Based solely on the licentiate's professional training and judgment, dispensing pursuant to the order or the prescription is contrary to law, or the licentiate determines that the prescribed drug or device would cause a harmful drug interaction or would otherwise adversely affect the patient's medical condition.

(2) The prescription drug or device is not in stock. If an order, other than an order described in Section 4019, or prescription cannot be dispensed because the drug or device is not in stock, the licentiate shall take one of the following actions:

(A) Immediately notify the patient and arrange for the drug or device to be delivered to the site or directly to the patient in a timely manner.

(B) Promptly transfer the prescription to another pharmacy known to stock the prescription drug or device that is near enough to the site from which the prescription or order is transferred, to ensure the patient has timely access to the drug or device.

(C) Return the prescription to the patient and refer the patient . The licentiate shall make a reasonable effort to refer the patient to a pharmacy that stocks the prescription drug or device that is near enough to the referring site to ensure that the patient has timely access to the drug or device.

(3) The licentiate refuses on ethical, moral, or religious grounds to dispense a drug or device pursuant to an order or prescription. ~~A~~

1 (A) A licentiate may decline to dispense a prescription drug or  
2 device on this basis only if the licentiate has previously notified  
3 his or her employer, in writing, of the drug or class of drugs to  
4 which he or she objects, and the licentiate's employer can,  
5 without creating undue hardship, provide a reasonable  
6 accommodation of the licentiate's objection. The licentiate's  
7 employer shall establish protocols that ensure that the patient has  
8 timely access to the prescribed drug or device despite the  
9 licentiate's refusal to dispense the prescription or order. For  
10 purposes of this section, "reasonable accommodation" and  
11 "undue hardship" shall have the same meaning as applied to  
12 those terms pursuant to subdivision (l) of Section 12940 of the  
13 Government Code.

14 (B) *The California State Board of Pharmacy shall create and*  
15 *provide to licentiates or licentiate's employers a sign informing*  
16 *patients that, if a licentiate refuses to dispense a prescription*  
17 *drug or device based on ethical, moral, or religious grounds, the*  
18 *patient has a right to timely access to the prescribed drug or*  
19 *device. If a licentiate is authorized, pursuant to subparagraph*  
20 *(A), to decline to dispense a prescription drug or device, the*  
21 *licentiate or licentiate's employer shall place this sign in a*  
22 *location that is visible to patients and that is at or near the*  
23 *entrance of the business.*

24 (c) For the purposes of this section, "prescription drug or  
25 device" has the same meaning as the definition in Section 4022.

26 (d) The provisions of this section shall apply to the drug  
27 therapy described in paragraph (8) of subdivision (a) of Section  
28 4052.

29 (e) This section imposes no duty on a licentiate to dispense a  
30 drug or device pursuant to a prescription or order without  
31 payment for the drug or device, including payment directly by  
32 the patient or through a third party payer accepted by the  
33 licentiate or payment of any required copayment by the patient.